

COTTONWOOD HEIGHTS

RESOLUTION NO. 2021-06

A RESOLUTION APPROVING AMENDED RULES AND PROCEDURES FOR THE COTTONWOOD HEIGHTS PLANNING COMMISSION

WHEREAS, on 14 January 2005 the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted Ordinance No. 05-12 creating the City’s Planning Commission (the “*Commission*”); and

WHEREAS, the City’s ordinances concerning the creation and operation of the Commission subsequently were codified as Chapter 19.05 of the Cottonwood Heights Code (the “*Code*”); and

WHEREAS, pursuant to Code Section 19.05.100, the Commission is required to adopt rules and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the proper functioning of the Commission, which rules and procedures are effective upon their approval by the City’s city council (the “*Council*”); and

WHEREAS, the Commission heretofore has adopted, and the Council has approved, rules and procedures as required (the “*Rules*”); and

WHEREAS, City staff thereafter proposed amendments to the Rules (the “*amended Rules*”), as previously amended, which were approved by the Commission on 3 February 2021 and now have been submitted to the Council for approval; and

WHEREAS, the Council met in a regular session on 16 February 2021 to consider, among other things, approving the amended Rules; and

WHEREAS, the Council has reviewed and is familiar with the amended Rules, a copy of which is annexed hereto, wherein deletions to the current Rules are ~~struck through~~ and additions to the current Rules are underlined.; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the amended Rules;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the amended Rules are hereby approved by the Council.

This Resolution, assigned no. 2021-06, shall take effect immediately upon passage.

PASSED AND APPROVED effective 16 February 2021.

ATTEST:

By:

Paula Melgar, Recorder



By:

Michael J. Peterson, Mayor

VOTING:

Michael J. Peterson	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Douglas Petersen	<input checked="" type="checkbox"/> Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
J. Scott Bracken	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Tali C. Bruce	<input checked="" type="checkbox"/> Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Christine Watson Mikell	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 16th day of February 2021.

RECORDED this 18 day of February 2021.



PLANNING COMMISSION RULES AND PROCEDURES

I. AUTHORITY

The Planning Commission (the “*Commission*”) of the city of Cottonwood Heights (the “*City*”) was formed pursuant to the City’s ~~ordinance no~~ Ordinance No. 05-12, as authorized by UTAH CODE ANN. ~~section~~ §10-9-201, as amended. These rules and procedures are adopted pursuant to section 9 of that ordinance, as authorized by UTAH CODE ANN. ~~section~~ §10-9a-301(1)(b)(v).

II. PURPOSE

Upon taking office, all members of the Commission shall familiarize themselves with these rules and procedures and, while in office, members shall maintain such knowledge, including knowledge of amendments and additions, and shall be strictly governed thereby in the conduct of Commission affairs.

III. ORGANIZATION

Officers and Duties: The Commission shall have a chairperson (the “*Chairperson*”) and a vice chairperson (the “*Vice Chairperson*”), who shall be elected by the majority vote of the voting Commission members at an election taking place during the second regularly scheduled meeting in January. Nominations for each office shall be received from the voting Commission members.

A. The Chairperson and Vice Chairperson shall each serve for a term of one year, beginning the first regular meeting in ~~February~~ July.

1. The Chairperson shall preside over all meetings and hearings of the Commission and shall execute all official documents and letters on behalf of the Commission.

2. The Chairperson shall preserve order, and decide all points of order, subject to appeal of the membership. Such an appeal shall be decided by a majority vote of the members present. The Chairperson may vote on all matters before the Commission.

3. The Chairperson or Vice Chairperson shall sign all final plats.

4. In the event of absence or disability of the Chairperson, the Vice Chairperson shall preside. In the absence of both, the members shall appoint a temporary Chairperson for that meeting.

5. If the Chairperson vacates office before ~~his or her~~ their term of office is completed, then the Vice Chairperson will succeed the Chairperson and will serve the unexpired term. A new Vice Chairperson shall be elected at the Commission’s next regular meeting to

serve the unexpired term of the (former) Vice Chairperson.

B. The Chairperson ~~and/or~~, Vice Chairperson, or their designee shall assist in the orientation of new Commission members.

C. All members of the Commission shall recognize the Chairperson as the spokesperson for the Commission.

Subcommittees: The Chairperson, with the concurrence of a majority vote of the Commission, may create such special subcommittees as he or she may, from time to time, deem necessary or desirable.

A. Each subcommittee will be established for a period of not to exceed one year. Each subcommittee will establish its own procedures except that a chairperson for such subcommittee, appointed by the Commission, will report the status of the subcommittee's actions to the Commission at a regularly scheduled meeting.

B. The chairperson of each subcommittee must be a voting member of the Commission.

C. Subcommittees may consist of members of the Commission or others, approved by the Commission's majority vote.

D. All communications from the subcommittees, to outside persons or organizations, must first go through the Commission's Chairperson for approval.

Appointment of Alternate Members: The City's manager (the "*Manager*"), with advice and consent of the city council (the "*Council*"), may appoint one or more alternate members of the Commission. Such alternate members of the Commission may participate in all Commission meetings and activities; provided, however, an alternate member of the Commission may only participate as a voting member in the absence of one or more of the Commission's seven regular members. Participation of alternate members as voting members shall be as directed by the Chairperson, who shall use reasonable efforts to give all alternate members equivalent opportunities to participate as voting members as occasions arise (due to unavailability of regular members) over time.

IV. EXECUTIVE SECRETARY

A. The ~~City's community development~~ director ~~or his~~ of the City's department of community and economic development (the "*Department*"), or designee, shall be the Commission's executive secretary (the "*Executive Secretary*").

B. The Executive Secretary shall provide orientation to new Commission members.

C. The Executive Secretary shall prepare copies of the Commission agenda and deliver the agenda, together with any other reports, materials and communications pertaining to the agenda, to all necessary parties at least five calendar days prior to each Commission meeting. Such materials may be supplemented thereafter in the Executive Secretary's reasonable

discretion.

D. The Executive Secretary or ~~his~~-designee shall attend all meetings of the Commission.

E. The Executive Secretary shall prepare all reports and gather such information as may be necessary for the Commission to conduct its business.

F. The Executive Secretary shall be responsible for all notification procedures required by applicable law unless other provisions are established by City ordinance.

G. The Executive Secretary shall cause official books of approved minutes, resolutions and ordinances to be created and maintained.

V. LEGAL COUNSEL

A. The city attorney (the “Attorney”) or ~~his~~-designee shall be the legal counsel for the Commission and its committees.

B. The Attorney shall prepare memoranda of law as requested by the Commission, and review drafts of ordinances, resolutions, and bylaws, and their amendment.

VI. MEETINGS

The Commission shall give notice at least once each year of its meeting schedule for all regular meetings. Public notice of all meetings shall be provided in accordance all applicable laws.

Time and Place:

A. Regular public meetings of the Commission shall be on the first ~~and third~~ Wednesday of every month at 6:00 p.m. and the third Wednesday of January, April, July, and October at 6:00 p.m., or as set forth in the annual meeting schedule. The Commission will hold a work session to start one hour before each of the Commission’s regular public meetings.

B. Meetings of the Commission shall be held at the locations designated in the public notices of such meetings, which may include the Council’s chambers, a conference room in the City’s offices, or any other place. Meetings may occur in person or via telephonic or electronic conference if and as authorized by the Open and Public Meetings Act, UTAH CODE ANN. §52-4-101 et seq. (the “OPMA”). All electronic meetings of the Committee shall comply with the requirements for electronic meetings specified below.

C. A quorum of the Commission shall consist of four regular or alternate members. A quorum shall be necessary to conduct official business.

D. Special meetings for any purpose may be held on the call of the Chairperson or of

four regular members of the Commission. Commission members shall be notified of such meetings by the Executive Secretary, in accordance with all applicable legal requirements.

E. Study/work sessions or field trips can be requested by any voting member of the Commission. Requests can be made either in regular meetings or verbally by phone to the Chairperson. The Chairperson is responsible to communicate these requests to the Executive Secretary for noticing purposes.

F. All meetings of the Commission are open to the public. Except as approved by vote of the Commission, public comment is not taken at a study/work session.

Length of Meetings: At 9:00 p.m. the Commission will finish the item presently being considered and no additional items will be heard after that time unless there is a motion by a member of the Commission requesting to continue the agenda and approved by a 2/3 majority vote. All items remaining to be heard will be forwarded to the next agenda for consideration.

Time Control: The Chairperson may, at any time, institute measures to control the time for debate on any issue. Care should be taken to insure fairness and consistency in the hearing process. The Chairperson may stop debate once he or she believes the issue has been adequately and fairly heard.

Records: Minutes shall be kept of all Commission meetings by a person appointed by the Executive Secretary. Such minutes shall include, but not be limited to:

- A. The date, time and place of meeting;
- B. The names of members present and absent;
- C. The substance of all matters proposed, discussed or decided, and a record, by individual member, of the votes taken; and
- D. City's staff's analysis of each application. A copy of the staff analysis will also be included in each Commissioner's packet of background information for the meeting.

The minutes are public records and shall be available within a reasonable time after the meeting.

Requirements for the Submission of Requests: The following shall apply to applications made to the Commission:

- A. The Commission shall adopt standard forms for the submission of requests, ~~with advanced time requirements.~~
- B. The Executive Secretary shall certify completeness of requests.

C. Any request denied by the Commission shall not be resubmitted for a period of six months following such denial. Disapproval of rezone and land use amendment applications shall not be resubmitted for a period of one year after the date of final disapproval as provided in COTTONWOOD HEIGHTS CODE §§19.90.050 and 19.90.100.

D. The Commission may establish, subject to Council approval, a fee schedule for the submission of requests to cover processing, duplication, and distribution of request and related documents.

Order of Business for regular meeting: The agenda items shall be listed in the following order:

- A. Call to Order
- B. Public Comment (For information only)
- C. Agenda Items
- D. Other Business
- E. Approval of Minutes
- F. Adjournment

A change in the order of the Commission's agenda for a meeting shall be determined by ~~a voice vote of the voting Commission members present during the meeting~~ the Chairperson or Vice Chairperson.

Roberts Rules of Order: The Commission hereby accepts Roberts Rules of Order as found in The New Roberts Rules of Order, edited by John Sherman, 1993. Roberts Rules of Order shall be for reference and consulting purposes only and shall not be considered as binding.

Electronic Meetings: Pursuant to UTAH CODE ANN. §52-4-207, the following rules shall govern any electronic meeting of the Commission at which any member(s) of the Commission are participating by means of a telephonic or telecommunications conference. Unless otherwise clearly indicated by the context, capitalized terms below shall have the same meanings as in UTAH CODE ANN. §52-4-207.

A. Commission meetings may be conducted by electronic means pursuant to UTAH CODE ANN. §52-4-207.

B. Any electronic meeting of the Commission shall be held in strict compliance with (1) the public noticing, anchor location and other requirements of UTAH CODE ANN. §52-4-207, and (2) the "Procedures Governing Electronic Meetings of Cottonwood Heights' Public Bodies" adopted pursuant to City Council Resolution 2020-08, as amended, a copy of which procedures

is attached.

~~C.~~ C. During an electronic meeting, contact shall be established and maintained by telephone, by televised conference, or by any other means of communication by which all of the Commission members and other appointed officers of the City that are participating in such meeting may hear each other during the meeting.

VII. VOTING

~~A.~~ A. A quorum of Commission members must be present and vote in a public meeting for the Commission to make a decision. A quorum of the Commission shall consist of four regular or alternate members.

B. Any agenda item must receive four affirmative votes for approval or recommendation to the Council for approval.

C. A voting member's failure or refusal to vote shall be counted as an abstention.

D. All votes shall be cast verbally. Each voting member shall either vote for, against or abstain from voting. A Commission member should abstain only if he or she has a possible conflict of interest. If a Commission member suspects that he or she may have a conflict of interest under applicable law, such member should consult with the Attorney prior to the scheduled review for advice regarding the appropriate action to be taken. If a Commission member first suspects such a conflict of interest during the meeting in which the matter is being reviewed, then such member should declare the conflict on the record and should not participate in the discussion or voting on the matter until legal determination is made.

E. Motions approved by the Commission should clearly indicate the reason(s) for the decision. The motion, voting results, and the specific reasons justifying the Commission's actions shall be included in the minutes of the meeting. Reasons for voting against a motion may also be given. Written findings may be prepared and approved when appropriate.

F. Commission members voting in the minority on an issue can request that the minority position be recorded in the minutes of the meeting and may submit a written report of that position to the Council.

G. Whenever possible, decisions concerning applications heard at scheduled meetings shall be rendered immediately following discussion. Decisions on difficult or controversial issues may be continued until a future scheduled meeting of the Commission.

VIII. PARTICIPATION BY STAFF AND PUBLIC

A. No person shall be permitted to speak unless recognized by the Chairperson. Each person speaking before the Commission shall first state ~~his or her~~ their name and ~~address~~ and then the substance of ~~his or her~~ their remarks.

- B. Matters before the Commission shall be presented in the following manner:
1. Presentation by staff
 2. Presentation by applicant
 3. Comments and questions by the Commission
 4. Comments from the public, where appropriate and invited by the Chairperson
 5. Discussion, motion and vote by the Commission

C. Public Hearings: For agenda items which require a public hearing, the Commission shall open the public hearing section of the meeting with a motion to receive public comment. After receiving public comments as required by law, the Commission shall close the public hearing section. Each public hearing shall be specifically noted on Commission's agenda for that meeting.

D. Except for final plats, the applicant or ~~his~~-designee is required to be in attendance at the Commission meeting at which ~~his or her~~that application is being considered.

E. Other Actions: Other actions which the Commission is authorized to take pursuant to applicable law shall be taken in a manner consistent with these rules.

F. Submission ~~Deadline: All written submissions by the applicant, the proponents or the opponents of the request~~Deadlines: All applications to the Commission shall be submitted by 5:00 p.m., ~~mountain~~Mountain time, at least three ~~business days~~weeks before the meeting ~~(i.e. — by Friday, for a meeting occurring on the following Wednesday).~~ All written submissions by the applicant, including revised plans and other application updates, shall be submitted by 5:00 p.m., Mountain time, at least one week before the meeting. Notwithstanding the foregoing, the Commission may, by majority vote at the meeting, agree to accept additional written submissions at the meeting if the Commission determines that (1) such items are material to its decision; and (2) the submitter was reasonably unable to make such submission by the aforementioned deadline; and (3) the Commission will have adequate time to review, consider and discuss such additional submissions before rendering its decision. All written public comments on any agenda item should be received by the Department by 12:00 p.m. on the day before the meeting to be entered into the record and distributed to the Commission. Comments received after 12:00 p.m. on the day before the meeting will be distributed to the Commission members after the meeting.

IX. TRANSMITTAL TO COUNCIL

Matters transmitted to the Council shall be the recommendation of the Commission

based on the Commission's majority vote.

X. ANNUAL REPORT

The Executive Secretary or ~~his~~-designee shall prepare a brief annual report to be presented to the Council in February of each year. This report will include information on the number of applications reviewed and actions taken by the Commission and the number of petitions approved, denied, revised or reversed by the Council or other reviewing authority.

XI. RULES OF ETHICAL CONDUCT FOR THE COMMISSION

Municipal Officers' and Employees' Ethics Act: The purpose of the Municipal Officers' and Employees' Ethics Act, UTAH CODE ANN. ~~sections~~§10-3-1301 *et seq.* (the "Ethics Act") is to establish standards of conduct for municipal officers and to require disclosure of actual and potential conflicts of interest between each such officer's public duties and personal interests. **Members of the Commission are covered by the Ethics Act, and familiarity and compliance with the Ethics Ethics Act is required of all members of the Commission. A ~~copy of the current Act is attached to these rules.~~** Without limiting the specific requirements of the Ethics Act, the following general rules of ethical conduct are binding on each member of the Commission:

A. Conflicts of Interest. A member of the Commission to whom some private benefit may come as the result of Commission action should not be a participant in the action.

1. The private benefit may be direct or indirect; create a material or personal gain; or provide an advantage to relations, friends, or to groups and associations which hold some share of the member's loyalty. However, membership itself in a group or organization shall not be considered a conflict of interest as to Commission action concerning such group or association unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.

2. A member experiencing, in ~~his or her~~their opinion, a conflict of interest should declare that interest publicly, abstain from voting on the action, and ~~excuse himself or herself~~withdraw from the room during consideration of the action. The member should not discuss the matter privately with any other Commission member. The vote of a member experiencing a conflict of interest who wrongfully fails to disqualify himself or herself shall be disallowed upon motion and affirmative vote of a majority of the balance of the Commission.

3. A conflict of interest may exist under these rules although a Commission member may not believe he or she has an actual conflict; therefore, a member that has any question as to whether a conflict of interest exists under these rules should raise the matter with the other members of the Commission and with Attorney in order that a determination may be made as to whether a conflict of interest exists.

4. No Commission member should engage in any transaction in which he or she has a material financial interest, direct or indirect, with the City unless the transaction is disclosed publicly and determined to be lawful.

5. The Council has determined that, in approving appointments to the Commission, the Council will not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in matters before the Commission is necessary only in those specific cases in which an actual conflict of interest arises.

B. Gifts and Favors. Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility. The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Occasional non-monetary gifts having a value of less than \$50 (such as business lunches, calendars, or office ~~brie-a-brae~~supplies) are often, but not always, acceptable. In case of doubt, refuse. In case of marginal doubt, refuse.

C. Treatment of Information. It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Official advice should not be furnished to some unless it is available to all.

2. Information of private affairs that is learned by a member in the course of performing official duties must be treated in confidence. Private affairs become public affairs when an official action – such as a zoning change or a plat approval – is requested with respect to them. Only then is a disclosure of relevant information proper.

3. Information contained in studies that are in progress in an agency should not be divulged except in accordance with established agency policies on the release of its studies. A public agency is not required to do all of its thinking out loud in public.

4. Private meetings between a Commission member and applicants, their agents, or other interested parties are prohibited. It is inappropriate behavior to receive information from others (excluding City officers and employees acting in their official capacities) outside Commission meetings. Partisan information on any application received by a Commission member, whether by mail, telephone, or other communication should be made part of the public record. Moreover, if the member believes the information impairs ~~his or her~~their ability to make an unprejudiced decision, ~~he or she~~the member should recuse himself or herself from the vote.

XII. AMENDMENT OF RULES AND PROCEDURES

The Commission may recommend to the Council proposed amendments to these rules and procedures from time to time. These rules and procedures may be amended at any time by the Council by resolution or by ordinance, with or without the Commission's prior consideration or recommendation.

Procedures Governing Electronic Meetings of Cottonwood Heights' Public Bodies

Pursuant to UTAH CODE ANN. §52-4-207, the following procedures (these "Procedures") shall govern any electronic meeting of any of the public bodies ("Public Bodies") of the city of Cottonwood Heights (the "City") (including, without limitation, any meeting of the City's city council [the "Council"]) at which any member(s) of such body, or any of the City's appointed officers, are participating by means of a telephone, internet or other electronic method. Unless otherwise clearly indicated by the context, capitalized terms below shall have the same meanings as in the Open and Public Meetings Act, UTAH CODE ANN. §52-4-101 et seq. (the "Open Meetings Act").

1. Meetings of the City's Public Bodies may be conducted by electronic means pursuant to UTAH CODE ANN. §52-4-207 if, after making reasonable effort to do so, the Public Body is unable to hold the meeting with all its members physically present in the physical anchor location ("Anchor Location").

2. Any Electronic Meeting shall be held in strict compliance with the public noticing, Anchor Location and other requirements of the Open Meetings Act.

3. Without limiting the foregoing, notice of the Electronic Meeting and a description of how the members will be connected to the Electronic Meeting shall be given to the members of the Public Body at least 24 hours before the Electronic Meeting so they may participate in it. Members of the Public Body who desire to participate electronically are responsible for providing their contact information to the City's recorder (or other City-designated administrator of the meeting) in advance of the meeting to allow their participation.

4. During an Electronic Meeting, contact shall be established and maintained by telephone, by televised conference, by the internet, or by any means of electronic communication reasonably designated by the City. All parties participating electronically shall be able to hear and to speak with each other and all present in the Anchor Location, and all parties in the Anchor Location shall be able to hear and to speak with those participating electronically. If visual aids or documents are to be presented or used at the meeting, reasonable efforts should be made to provide copies to each person participating electronically.

5. The City shall establish one or more Anchor Locations for the meeting, at least one of which shall be where the Public Body would normally meet if they were not holding an Electronic Meeting. City staff shall assure that space and facilities are provided at the Anchor Location so that interested persons and the public may attend and monitor the open portions of the meeting.

6. Upon determining that a quorum ("Quorum") of the Public Body is present and communication is established as required, the chair of the meeting shall convene the meeting and take a roll call of those participating. If a member is disconnected during the meeting, so long as a Quorum still exists the chair shall have discretion of whether or not to continue the

meeting without that person or to wait until they can be reconnected.

7. Electronic participation in a meeting shall constitute presence at that meeting for all purposes, including the determination of a Quorum and voting.

8. Minutes of an Electronic Meeting shall note that the meeting was conducted electronically in accordance with the Act and shall identify the members of the Public Body who participated electronically.

9. These procedures may be revoked or amended at any time upon written resolution of the Council.

10. Any Anchor Location, noticing, and other provisions of these Procedures that are suspended or modified pursuant to UTAH CODE ANN. §52-4-207(4) may be so suspended or modified as provided in that statute or its successor.